IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE V.RAMKUMAR

MONDAY, THE 26TH NOVEMBER 2007 / 5TH AGRAHAYANA 1929

Crl.Rev.Pet.No. 4011 of 2007()

ST.982/2006 of JUDICIAL FIRST CLASS MAGISTRATE-IV, KOCHI

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REVN. PETITIONER: PETITIONER/COMPLAINANT

M/S. MUTHOOT LEASING AND FINANCE LTD.,
MUTHOOT CHAMBERS, 2ND FLOOR, OPPOSITE SANTHA
THEATRE COMPLEX, BANERJI ROAD, ERNAKULAM,
COCHIN-682 018, REPRESENTED BY ITS LEGAL OFFICER
& POWER OF ATTORNEY HOLDER SMT. BABY SUJATHA.

BY ADV. SRI.JOHN JOSEPH(ROY)

RESPONDENTS: ACCUSED & STATE

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1. SATHAR P.T., AGED ABOUT 32 YEARS,
POTHIYIL THOTTIPARAMBIL, THAZHEKODE P.O.,
PERINTHALMANNA, MALAPPURAM DISTRICT.

2. STATE OF KERALA, REPRESENTED BY
THE PUBLIC PROSECUTOR, HIGH COURT OF KERALA,
ERNAKULAM.

BY ADV. SRI. C.M.NAZAR, PUBLIC PROSECUTOR

THIS CRIMINAL REVISION PETITION HAVING COME UP FOR ADMISSION ON 26/11/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

V. RAMKUMAR , J

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CRL.R.P. NO.4011 OF 2007

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Dated this the 26th day of November, 2007.

ORDER

The revision petitioner is the complainant in S.T. No. 982/2006 on the file of the Judicial First Class Magistrate-IV, Kochi in a prosecution under Section 138 of the Negotiable Instruments Act involving a cheque for a sum of Rs.1,38,400/-. He challenges the impugned order dated 05.06.2007 passed by the Magistrate dismissing the complaint under Section 204(4) Cr.P.C for the reason that no steps were taken for issuing process and that the complainant was absent. Even though the complainant was absent, the order itself shows that complainant was represented and according to the learned counsel for the revision petitioner, he had produced a stamped cover and initial steps had been taken along with the institution of the complaint and that on 05.06.2007 time was sought for taking steps for issuing process, but was rejected.

2. Since the complaint was dismissed before the accused has entered appearance, notice to the 1st respondent/accused is dispensed with in this revision.

3. The court below was not justified in dismissing the complaint without giving the complainant one more opportunity to produce the stamped cover for issuing the process to the accused. The impugned order is set aside and S.T No. 982/2006 will stand restored to file. The petitioner shall appear before the Magistrate without any further notice on **21.12.2007** by which time he shall have taken the necessary steps for the further progress of the complaint.

The Crl.R.P is disposed of accordingly.

V. RAMKUMAR, JUDGE.

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